

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 458 Session of 2017

INTRODUCED BY ARGALL, COSTA, RAFFERTY AND MENSCH, FEBRUARY 28, 2017

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS AMENDED, APRIL 18, 2017

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, in general provisions, further
3 providing for definitions; in contract carrier by motor
4 vehicle and broker, further providing for declaration of
5 policy and definitions; and, in violations and penalties,
6 further providing for unauthorized operation by carriers and
7 brokers.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The definition of "common carrier by motor
11 vehicle" in section 102 of Title 66 of the Pennsylvania
12 Consolidated Statutes, amended November 4, 2016, (P.L.1222,
13 No.164), is amended to read:

14 § 102. Definitions.

15 Subject to additional definitions contained in subsequent
16 provisions of this part which are applicable to specific
17 provisions of this part, the following words and phrases when
18 used in this part shall have, unless the context clearly
19 indicates otherwise, the meanings given to them in this section:

20 \* \* \*

1 "Common carrier by motor vehicle." As follows:

2 (1) Any common carrier who or which holds out or  
3 undertakes the transportation of passengers or property, or  
4 both, or any class of passengers or property, between points  
5 within this Commonwealth by motor vehicle for compensation,  
6 whether or not the owner or operator of such motor vehicle,  
7 or who or which provides or furnishes any motor vehicle, with  
8 or without driver, for transportation or for use in  
9 transportation of persons or property as aforesaid[, and  
10 shall include common].

11 (2) The term includes:

12 (i) Common carriers by rail, water, or air, and  
13 express or forwarding public utilities insofar as such  
14 common carriers or such public utilities are engaged in  
15 such motor vehicle operations[, but].

16 (ii) A person who provides or furnishes  
17 transportation of household property between residential  
18 dwelling within this Commonwealth by motor vehicle for  
19 compensation, owns or operates the motor vehicle and  
20 provides or furnishes a driver of the motor vehicle with  
21 the transportation.

22 (3) The term does not include:

23 [(1)] (i) A lessor under a lease given on a bona  
24 fide sale of a motor vehicle where the lessor retains or  
25 assumes no responsibility for maintenance, supervision,  
26 or control of the motor vehicles so sold.

27 [(2)] (ii) Transportation of school children for  
28 school purposes or to and from school-related activities  
29 whether as participants or spectators, with their  
30 chaperones, or between their homes and Sunday school in

1 any motor vehicle owned by the school district, private  
2 school or parochial school, or transportation of school  
3 children between their homes and school or to and from  
4 school-related activities whether as participants or  
5 spectators, with their chaperones, if the person  
6 performing the school-related transportation has a  
7 contract for the transportation of school children  
8 between their homes and school, with the private or  
9 parochial school, with the school district or jointure in  
10 which the school is located, or with a school district  
11 that is a member of a jointure in which the school is  
12 located if the jointure has no contracts with other  
13 persons for the transportation of students between their  
14 homes and school, and if the person maintains a copy of  
15 all contracts in the vehicle at all times, or children  
16 between their homes and Sunday school in any motor  
17 vehicle operated under contract with the school district,  
18 private school or parochial school. Each school district  
19 shall adopt regulations regarding the number of  
20 chaperones to accompany students in connection with  
21 school-related activities.

22 [(3)] (iii) Any owner or operator of a farm  
23 transporting agricultural products from, or farm supplies  
24 to, such farm, or any independent contractor or  
25 cooperative agricultural association hauling agricultural  
26 products or farm supplies exclusively for one or more  
27 owners or operators of farms.

28 [(4)] (iv) Any person or corporation who or which  
29 uses, or furnishes for use, dump trucks for the  
30 transportation of ashes, rubbish, excavated and road

1 construction materials. This paragraph does not include  
2 the use or furnishing of five-axle tractor trailers.

3 [(5)] (v) Transportation of property by the owner to  
4 himself, or to purchasers directly from him, in vehicles  
5 owned and operated by the owner of such property and not  
6 otherwise used in transportation of property for  
7 compensation for others.

8 [(6)] (vi) Transportation of voting machines to and  
9 from polling places by any person or corporation for or  
10 on behalf of any political subdivision of this  
11 Commonwealth for use in any primary, general, municipal  
12 or special election.

13 [(7)] (vii) Transportation of pulpwood, chemical  
14 wood, saw logs or veneer logs from woodlots.

15 [(8)] (viii) Transportation by towing of wrecked or  
16 disabled motor vehicles.

17 [(9)] (ix) Any person or corporation who or which  
18 furnishes transportation for any injured, ill or dead  
19 person.

20 [(10)] (x) A person or entity that is any of the  
21 following:

22 [(i)] (A) A transportation network company.

23 [(ii)] (B) A transportation network company  
24 driver.

25 (xi) A motor carrier when the motor carrier provides  
26 transportation of household goods in containers or  
27 trailers that are entirely packed, loaded, unloaded or  
28 unpacked by an individual other than an employee or agent  
29 of the motor carrier.

30 \* \* \*

1 Section 2. Section 2501(b) of Title 66, amended November 4,  
2 2016 (P.L.1222, No.164), is amended to read:

3 § 2501. Declaration of policy and definitions.

4 \* \* \*

5 (b) Definitions.--The following words and phrases when used  
6 in this part shall have, unless the context clearly indicates  
7 otherwise, the meanings given to them in this subsection:

8 "Broker." Any person or corporation not included in the term  
9 "motor carrier" and not a bona fide employee or agent of any  
10 such carrier, or group of such carriers, who or which, as  
11 principal or agent, sells or offers for sale any transportation  
12 by a motor carrier, or the furnishing, providing, or procuring  
13 of facilities therefor, or negotiates for, or holds out by  
14 solicitation, advertisement, or otherwise, as one who sells,  
15 provides, furnishes, contracts, or arranges for such  
16 transportation, or the furnishing, providing, or procuring of  
17 facilities therefor, other than as a motor carrier directly or  
18 jointly, or by arrangement with another motor carrier, and who  
19 does not assume custody as a carrier. The term does not include  
20 a transportation network company or a transportation network  
21 company driver.

22 "Contract carrier by motor vehicle."

23 (1) The term "contract carrier by motor vehicle"  
24 includes [any]:

25 (i) Any person or corporation who or which provides  
26 or furnishes transportation of passengers or property, or  
27 both, or any class of passengers or property, between  
28 points within this Commonwealth by motor vehicle for  
29 compensation, whether or not the owner or operator of  
30 such motor vehicle, or who or which provides or

1 furnishes, with or without drivers, any motor vehicle for  
2 such transportation, or for use in such transportation,  
3 other than as a common carrier by motor vehicle.

4 (ii) Any person or corporation that provides or  
5 furnishes transportation of household property between  
6 residential dwellings within this Commonwealth by motor  
7 vehicle for compensation, owns or operates the motor  
8 vehicle and provides or furnishes a driver of the motor  
9 vehicle with the transportation or use of the  
10 transportation.

11 (2) The term "contract carrier by motor vehicle" does  
12 not include:

13 (i) A lessor under a lease given on a bona fide sale  
14 of a motor vehicle where the lessor retains or assumes no  
15 responsibility for maintenance, supervision or control of  
16 the motor vehicle so sold.

17 (ii) Any bona fide agricultural cooperative  
18 association transporting property exclusively for the  
19 members of such association on a nonprofit basis, or any  
20 independent contractor hauling exclusively for such  
21 association.

22 (iii) Any owner or operator of a farm transporting  
23 agricultural products from or farm supplies to such farm,  
24 or any independent contractor hauling agricultural  
25 products or farm supplies, exclusively, for one or more  
26 owners or operators of farms.

27 (iv) Transportation of school children for school  
28 purposes or to and from school-related activities whether  
29 as participants or spectators, with their chaperones, or  
30 between their homes and Sunday school in any motor

1 vehicle owned by the school district, private school or  
2 parochial school, or the transportation of school  
3 children between their homes and school or to and from  
4 school-related activities whether as participants or  
5 spectators, with their chaperones, if the person  
6 performing the school-related transportation has a  
7 contract for the transportation of school children  
8 between their homes and school, with the private or  
9 parochial school, with the school district or jointure in  
10 which the school is located, or with a school district  
11 that is a member of a jointure in which the school is  
12 located if the jointure has no contracts with other  
13 persons for the transportation of students between their  
14 homes and school, and if the person maintains a copy of  
15 all contracts in the vehicle at all times, or children  
16 between their homes and Sunday school in any motor  
17 vehicle operated under contract with the school district,  
18 private school or parochial school. Each school district  
19 shall adopt regulations regarding the number of  
20 chaperones to accompany students in connection with  
21 school-related activities.

22 (v) Any person or corporation who or which uses, or  
23 furnishes for use, dump trucks for the transportation of  
24 ashes, rubbish, excavated or road construction materials.

25 (vi) Transportation of voting machines to and from  
26 polling places by any person or corporation for or on  
27 behalf of any political subdivision of this Commonwealth  
28 for use in any primary, general or special election.

29 (vii) Transportation of pulpwood, chemical wood, saw  
30 logs or veneer logs from woodlots.

1 (viii) Transportation by towing of wrecked or  
2 disabled motor vehicles.

3 (ix) Any person or corporation who or which  
4 furnishes transportation for any injured, ill or dead  
5 person.

6 (x) A transportation network company or a  
7 transportation network company driver.

8 (xi) A motor carrier when the motor carrier provides  
9 transportation of household goods in containers or  
10 trailers that are entirely packed, loaded, unloaded or  
11 unpacked by an individual other than an employee or agent  
12 of the motor carrier.

13 Section 3. Section 3310 of Title 66 is amended to read:

14 § 3310. Unauthorized operation by carriers and brokers.

15 (a) General rule.--Any person or corporation operating as a  
16 motor carrier or as a common carrier by airplane, and any  
17 operator or employee of such carrier, and any person or  
18 corporation operating as a broker, without a certificate of  
19 public convenience, permit or license, authorizing the service  
20 performed, as required by this part, shall be guilty of a  
21 summary offense, and any subsequent offense by such person or  
22 corporation shall constitute a misdemeanor of the third degree.

23 (b) Transportation of household property violations.--Any  
24 person or corporation operating as a common carrier under  
25 paragraph (2)(ii) of the definition of "common carrier by motor  
26 vehicle" in section 102 (relating to definitions) or contract  
27 carrier by motor vehicle under paragraph (1)(ii) of the  
28 definition of "contract carrier by motor vehicle" in section  
29 2501(b) (relating to declaration of policy and definitions) in  
30 violation of this title ~~commits an offense.~~ SHALL BE ORDERED TO <--



1 PAY AN ADMINISTRATIVE PENALTY AS PRESCRIBED IN SUBSECTION (C).

2 (c) Sentencing PENALTIES.-- <--

3 (1) A person convicted under subsection (b) commits a <--

4 misdemeanor of the third degree and shall, upon conviction,

5 be sentenced to pay a fine of THE AMOUNT OF THE <--

6 ADMINISTRATIVE FINE UNDER SUBSECTION (B) SHALL BE \$5,000 for

7 a first offense VIOLATION and \$10,000 for a second or <--

8 subsequent offense VIOLATION. <--

9 (2) In addition to the penalty imposed under paragraph

10 (1), a person convicted under OR CORPORATION UNDER subsection <--

11 (b) may also be subject to the following:

12 (i) Suspension of registration under 75 Pa.C.S. §

13 1375 (relating to suspension of registration of

14 unapproved carriers).

15 (ii) Confiscation and impoundment of vehicle. A

16 sheriff, upon an order issued by the court and having

17 jurisdiction over the property, is empowered to

18 confiscate and impound vehicles which have been used to

19 provide common carrier by motor vehicle service or

20 contract carrier by motor vehicle service in violation of

21 subsection (b) or commission regulations. The process for

22 the disposition of impounded vehicles shall be as set

23 forth under 75 Pa.C.S. § 6310 (relating to disposition of

24 impounded vehicles, combinations and loads).

25 (d) Deposit of costs, fines and proceeds of forfeitures.--

26 Notwithstanding section 3315 (relating to disposition of fines

27 and penalties), all costs and fines collected and penalties

28 recovered under subsection (c) shall be deposited into the

29 General Fund and shall be deemed an augmentation to any

30 appropriation to the commission. All amounts appropriated to the

1 commission under this section shall be used to administer and  
2 enforce this chapter and commission regulations applicable to  
3 motor carriers.

4 Section 4. This act shall take effect in 60 days.